UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,161	07/12/2001	John L. Barrett	8X8S.261PA	2760

40581 7590 08/23/2005

CRAWFORD MAUNU PLLC
1270 NORTHLAND DRIVE, SUITE 390
ST. PAUL, MN 55120

EXAMINER	
POWERS, WILLIAM S	
ART UNIT	**PAPER NUMBER**
2134	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/905,161	BARRETT, JOHN L.	
	Examiner	Art Unit	
	William S. Powers	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 July 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *1/24/2002* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *9/24/2001*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

TL

DETAILED ACTION

Drawings

1. The drawings are objected to because reference numbers and associated arrows are indistinct. It is difficult to determine what the reference numbers are referencing, particularly reference numbers 325A, 327A, 327B, 327D and 328A of Figure 3A. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1-8, 10, 11 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,111,517 to Atick et al. (hereto referred to as Atick).

As to claims 1, 10 and 18, Atick teaches:

a. Automatically detecting a person within a predetermined viewing range of electronically displayed information using a monitoring system (column 3, lines 61-63 and column 5, lines 44-50).

b. Sending a signal, if an unauthorized individual is within viewing range, to the display and disabling the display screen to prevent viewing of sensitive information (column 8, lines 8-22).

As to claim 2, Atick teaches disabling the display screen in the event of an unauthorized individual approaching within viewing range (column 8, lines 20-22).

As to claim 3, Atick teaches replacing sensitive information with other data (column 8, lines 56-61).

As to claim 4, Atick teaches the use of a screen saver (column 8, lines 56-61).

As to claim 5, Atick teaches the use of a "prerecorded multimedia greeting message" when an unauthorized individual enters the view field of the monitoring system (column 10, lines 36-42).

As to claim 6, Atick teaches the user pre-selecting the software application to be launched if an unauthorized individual enters the view field of the monitoring system (column 8, lines 47-48).

As to claims 7, 12 and 13, Atick teaches using a monitoring system that:

a. Automatically detects individuals within view of a video camera (column 3, line 61-column 4, line 2).

b. Determines whether or not the person is an authorized user of a computer system (column 3, line 61-column 4, line 2).

c. Controls a display of the computer system in accordance with the determination of an authorized or unauthorized user (column 8, lines 8-22).

As to claim 8, Atick teaches, "storing facial representations of unauthorized individuals" who approach the computer system (column 10 lines 19-22). Atick further teaches updating images of the authorized users as their appearance changes (column 12, lines 40-52).

As to claim 11, Atick teaches the use of "discontinuities in the spatial, temporal, and color domains of the video image" to detect the presence of an individual (column 4, lines 20-27).

As to claims 14-16, Atick teaches the use of speech recognition of a detected individual to assist in the authorization procedure of the system (column 9, lines 53-59).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,111,517 to Atick et al. (hereto referred to as Atick) in view of U.S. Patent No. 6,380,924 to Yee et al. (hereto referred to as Yee).

As to claims 9 and 17, Atick teaches the use of a monitoring system to protect access to sensitive computers and data does not expressly mention the recording of keystrokes as part of that system.

Yee teaches the use of a Mouse/keyboard Capture Recorder that records all keystrokes and mouse movements that a user makes for later playback or analysis without the user's knowledge (column 5, lines 64-67), in order to monitor the user's work actions for security purposes (column 5, lines 15-20).

Therefore, it would have be obvious to one of ordinary skill in the art at the time the invention was made to implement the invention of Atick with the keystroke recording apparatus of Yee in order to monitor the user's work actions for security purposes (column 5, lines 15-20).

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 1 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/041,756. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are directed to substantially the same invention and recites only obvious differences that would have been obvious to one of ordinary skill in the art of data security such as using the word “modifying” in the instant application instead of “blocking” used in the co-pending application (10/041,756). In the instant application (09/905,161) the specification states that blocking the electronic information “occurs upon reconfiguring the display to replace the sensitive information with either a screen saver application or with a blank screen” (page 5, lines 19-20). In the pending application (10/041,756) the specification states that modifying the electronic information “is blocked by reconfiguring the display to replace the sensitive information with either a screen saver application or with a blank screen” (page 7, lines 12-14).

Clearly, in context of the respective specifications, the applicants use the words modifying and blocking interchangeably. In the broader sense of each application the words are also interchangeable. Both applications want to protect sensitive data from dissemination to unauthorized individuals. This is accomplished by altering the image of the data on the display device, not the data itself. The altering or modifying of the image of data on the display blocks access to that data. Blocking the image of data on the display modifies the image by replacing it with a blank screen or screen saver.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,282,655 to Given discloses the use of a motion sensor to detect users.

U.S. Patent No. 6,650,322 to Dai et al. discloses the use of a transmitter to detect users.

U.S. Patent No. 6,002,427 to Kipust discloses the use of a proximity detector to detect users.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William S. Powers, whose telephone number is (571)

272-8573. The examiner can normally be reached Monday-Thursday from 8 AM – 4:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse, can be reached at (571) 272-3838.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
PO Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(571) 273-8300

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (886) 217-9197 (toll-free).

WSP

GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

August 17, 2005

MCH